IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3862 OF 2004

Abdul Kayyum Mohmed Ismail
Bagalkote. ... Petitioner

V/s

State of Maharashtra & Ors. ... Respondents.

Shri R.K.Mendadkar, Advocate for petitioner.
Shri R.D.Rane, AGP for respondents No.1,2 and 5.
Shri G.S.Hegde, Advocate for respondents No.3 and 4.

CORAM: A.P.SHAH &
S.U.KAMDAR,JJ

DATE : 8TH SEPTEMBER, 2004.

P.C. :-

1. Rule.

2. The learned counsel appearing for the respondents waive service. By consent, rule is made

returnable forthwith.

3. The learned AGP Shri Rane fairly conceded that the impugned order of Caste Scrutiny Committee cannot be sustained in view of the decision of the Apex Court in **Vasant Pandurang Narwade @ Narvde V/s. Suhas & Ors.(Civil Appeal Nos.4409-4410 of 2001 decided on 20th July, 2001.**) In that case, the Apex Court held that the Scrutiny Committee is obliged to record a finding whether or not the applicant belongs the caste claimed by him on the basis of the certificates and other documents produced by him. In the present case, the Scrutiny Committee held that the issuance of the original caste certificate was in doubt and on that ground alone the Scrutiny Committee held that the petitioner's claim cannot be validated and he cannot claim as belonging to Koya schedule tribe. In light of the decision of the Supreme Court in Vasant P.Narwade @ Narvde V/s. Suhas & Ors.(Supra) the Scrutiny Committee is duty bound to examine the case of the petitioner on merits and record a finding whether the petitioner belongs to the cast claimed by him. We therefore quash and set aside the order of the Scrutiny Committee and remand the matter back to the Committee for fresh determination of the caste

claim of the petitioner in accordance with the law. The Scrutiny Committee is directed to decide the matter expeditiously and in any event within a period of 3 months from today.

4. All contentions on merits are left open to the parties.

5. Petition is disposed of in terms of the order mentioned above.